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13 Attorneys for Plaintiffs

14 SUSAN K. MYERS, MICHAEL F. MYERS

and KEITH J. GOTT

16 **UNITED STATES DISTRICT COURT**

17 **FOR THE DISTRICT OF NEVADA**

18 SUSAN K. MYERS, individually and as
trustee of the Susan K. Myers Living Trust
19 dated January 8, 2001, MICHAEL F.
MYERS, individually and as trustee of the
20 Susan Myers Massachusetts Trust, dated July
21 11, 2008, and KEITH J. GOTT, as trustee of
the Michael F. Myers Massachusetts Trust,
22 dated October 23, 2008, and the Michael F.
Myers Massachusetts Trust, dated December
23 3, 2008,

24 Plaintiffs,

25 v.

26 JAMES ARCHIBALD and PORT CAPITAL
MANAGEMENT LLC, a limited liability
company,

27 Defendants.

Case No: 3:10-cv-258-RCJ-WGC

**STIPULATION AND ORDER
RE AMENDMENT TO DISCOVERY PLAN**

1 WHEREAS, on February 22, 2011, the Court approved and entered the parties' stipulated
2 Proposed Discovery Plan (Dkt. No. 88), which, among other things, set various deadlines for
3 discovery events and certain filings in this action;

4 WHEREAS, following the entry of the Proposed Discovery Plan, the parties proceeded
5 with discovery expeditiously, including propounding and exchanging written discovery requests,
6 producing several thousand pages of documents each, meeting and conferring about discovery
7 disputes both in writing and telephonically, and propounding discovery to third parties;

8 WHEREAS, the parties proceeded to engage in good faith discussions about a potential
9 resolution of Plaintiffs' claims and agreed to proceed with private mediation in an effort to resolve
10 the dispute;

11 WHEREAS, in light of the parties' discussions and agreement to proceed with private
12 mediation, the Court approved their stipulated request to extend the remaining discovery and
13 expert disclosure deadlines in an Order filed on July 21, 2011 (Dkt. No. 105)

14 WHEREAS, the parties attended and participated in a mediation on September 13, 2011 in
15 Chicago, Illinois before the Honorable Richard E. Neville (Ret.) of JAMS;

16 WHEREAS, although the parties did not resolve their dispute at the September 13
17 mediation, the parties, with the ongoing assistance of Judge Neville, continued to engage in, and
18 presently are engaging in, discussions regarding the resolution of this matter and have made
19 substantial progress towards such a resolution;

20 WHEREAS, in light of the progress they have made, the parties wish to avoid
21 unnecessarily expending substantial additional sums in pursuing discovery and expert work over
22 the next month and accordingly require a short, one-month extension of the current December 23,
23 2011 deadline for exchange of initial expert disclosures and concomitant, roughly one-month
24 extensions of the remaining discovery and expert disclosure deadlines so that they may focus on
25 their ongoing discussions without unnecessary expenditure of funds and resources;

26 NOW, THEREFORE, it is hereby stipulated and agreed, by and between plaintiffs Susan
27 K. Myers, Michael F. Myers, and Keith J. Gott (collectively, "Plaintiffs") and defendants James
28 Archibald and Port Capital Management LLC (together, "Defendants"), through undersigned

counsel, that the Discovery Plan entered on February 22, 2011, amended by Order of the Court on July 21, 2011, is further amended as follows (the enumerated paragraphs below correspond to the enumerated paragraphs in the Discovery Plan entered on February 22, 2011):

4. Discovery Cut-Off. All discovery shall be completed by **March 23, 2012.**

6. Expert Disclosures. Initial expert disclosures shall be made on or before **January 23, 2012.** Rebuttal expert disclosures shall be made on or before **March 1, 2012.**

7. Dispositive Motions. Dispositive motions shall be filed on or before **April 18, 2012.**

8. Pretrial Order. The Pretrial Order shall be filed on or before **May 18, 2012**, which is thirty (30) days after the deadline for filing dispositive motions, unless dispositive motions have been filed, in which case the Pretrial Order will be due thirty (30) days after a decision or further order of the Court.

DATED: December 9, 2011

KASOWITZ, BENSON, TORRES & FRIEDMAN LLP

By: /s/ Charles N. Freiberg
Charles N. Freiberg (Admitted *Pro Hac Vice*)
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San Francisco, CA 94111

Attorneys for Plaintiffs
Susan K. Myers, Michael F. Myers, and Keith J. Gott

DATED: December 9, 2011

BOWDITCH & DEWEY LLP

By: /s/ Louis M. Ciavarra
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311 Main Street
Worcester, MA 01608

Attorneys for Defendants
James Archibald and Port Capital Management LLC

Pursuant to the parties' stipulation, and good cause appearing,

IT IS SO ORDERED.

Dated: December 9, 2011.

William G. Cobb
Honorable William G. Cobb
United States Magistrate Judge